IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH.

L.P.A. No. 1021 of 1994
Date of Decision: 10.12.2007

United India Insurance Company Limited.

..... Appellant through Shri Ashok Aggarwal, Senior Advocate with Shri Piyush Bansal, Advocate.

Versus

Kusum Sood and others.

..... Respondents through Shri Munishwar Puri, Advocate.

CORAM: HON'BLE MR. JUSTICE VIJENDER JAIN,
CHIEF JUSTICE
HON'BLE MR.JUSTICE MAHESH GROVER

....

1. Whether Reporters of Local Newspapers may be allowed to see the judgment?
2. To be referred to the Reporters or not?
3. Whether the judgment should be reported in the Digest?

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VIJENDER JAIN, CHIEF JUSTICE

The present appeal under Clause X of the Letters Patent preferred by United India Insurance Company Limited is directed against judgment dated 26.5.1994 passed by the learned Single Judge in F.A.O.No.989 of 1984.

The sole ground of challenge is that the appellant, which had insured the vehicle of the deceased, could not be held liable to pay compensation to the legal heirs of the insured, who lost his life in an accident while travelling in the said vehicle on 28.10.1982.

The plea is based on the premise that the deceased being the occupant of the vehicle in question which was insured by the appellant, could not claim any compensation from it as he was not a third party to be covered under the terms of the policy.

While arguing in support of the aforesaid contention, learned counsel for the appellant placed reliance on the judgments of the Supreme Court reported as United India Insurance Co.Ltd.,Shimla Versus Tilak Singh and others, (2006) 4 S.C.C.404 and National Insurance Co.Ltd. Versus Laxmi Narain Dhut, (2007) 3 S.C.C. 700.

On the other hand, learned counsel for the respondents contended that as per the terms of the policy of insurance, the driver of the vehicle was also covered and since the deceased was travelling in his own car being driven by the driver, therefore, his act of negligence which resulted in the accident would invite the liability of the insurance company.

We have heard the learned counsel for the parties.

In our considered opinion, the insurance company is bound by the terms of the policy as it is an intended contract between the insured and insurer. In case, the insurance company wants to wriggle out of the liability to pay the compensation, then it has to establish the breach of the conditions of the contract of which the policy is an embodiment.

In the instant case, the insurance policy, which was produced before us, reveals that the driver of the vehicle was covered under the risk clause.

In a case where a vehicle, which is owned and possession by

the owner himself, it is but natural to expect that he would ordinarily be its driver. The term `driver' as appearing in the insurance policy, would not necessarily mean a person, who is an employee of the owner or who happens to be at the wheel of the vehicle at the time of accident, but the necessary implication is that the person to whom the vehicle belongs, is also the intended driver for the same, and would be covered under the risk clause of the policy. The terms of the policy are, therefore, of extreme importance and are to be perused before ascertaining the liability of the insurance company.

As noticed above, since the terms of the policy covered the driver, the deceased, who was admittedly the owner of the vehicle, would also be covered as the word `driver' is not necessarily to refer to the person at the wheel or the employee of the owner, but it will also include the owner, who is an intended driver.

On the basis of the above discussion, we hold that this appeal does not have any merit and the same is hereby dismissed.

(Vijender Jain)
Chief Justice

December 10,2007
“SCM”

(Mahesh Grover)
Judge